

## § 206.347

## 44 CFR Ch. I (10–1–02 Edition)

expansion of the following publicly owned or operated facilities and certain private nonprofit facilities.

- (1) Roads and bridges;
- (2) Drainage structures, dams, levees;
- (3) Buildings and equipment;
- (4) Utilities (gas, electricity, water, etc.); and
- (5) Park and recreational facilities.

### § 206.347 Requirements.

(a) *Location determination.* For each disaster assistance action which is proposed on the Atlantic or Gulf Coasts, the Regional Director shall:

(1) Review a proposed action's location to determine if the action is on or connected to the CBRS unit and thereby subject to these regulations. The appropriate Department of Interior map identifying units of the CBRS will be the basis of such determination. The CBRS units are also identified on FEMA Flood Insurance Maps (FIRM's) for the convenience of field personnel.

(2) If an action is determined not to be on or connected to a unit of the CBRS, no further requirements of these regulations needs to be met, and the action may be processed under other applicable disaster assistance regulations.

(3) If an action is determined to be on or connected to a unit of the CBRS, it is subject to the consultation and consistency requirements of CBRA as prescribed in §§ 206.348 and 206.349.

(b) *Emergency disaster assistance.* For each emergency disaster assistance action listed in § 206.346(a), the Regional Director shall perform the required consultation. CBRA requires that FEMA consult with the Secretary of the Interior before taking any action on a System unit. The purpose of such consultation is to solicit advice on whether the action is or is not one which is permitted by section 6 of CBRA and whether the action is or is not consistent with the purposes of CBRA as defined in section 1 of that statute.

(1) FEMA has conducted advance consultation with the Department of the Interior concerning such emergency actions. The result of the consultation is that the Secretary of the Interior through the Assistance Secretary for Fish and Wildlife and Parks has con-

curred that the emergency work listed in § 206.346(a) is consistent with the purposes of CBRA and may be approved by FEMA without additional consultation.

(2) *Notification.* As soon as practicable, the Regional Director will notify the designated Department of the Interior representative at the regional level of emergency projects that have been approved. Upon request from the Secretary of the Interior, the Associate Director, SLPS, or his or her designee will supply reports of all current emergency actions approved on CBRS units. Notification will contain the following information:

(i) Identification of the unit in the CBRS;

(ii) Description of work approved;

(iii) Amount of Federal funding; and

(iv) Additional measures required.

(c) *Permanent restoration assistance.* For each permanent restoration assistance action including but not limited to those listed in § 206.346(b), the Regional Director shall meet the requirements set out below.

(1) *Essential links.* For the repair or replacement of publicly owned or operated roads, structures or facilities which are essential links in a larger network or system:

(i) No facility may be expanded beyond its predisaster design.

(ii) Consultation in accordance with § 206.348 shall be accomplished.

(2) *Channel improvements.* For the repair of existing channels, related structures and the disposal of dredged materials:

(i) No channel or related structure may be repaired, reconstructed, or replaced unless funds were appropriated for the construction of such channel or structure before October 18, 1982;

(ii) Expansion of the facility beyond its predisaster design is not permitted;

(iii) Consultation in accordance with § 206.348 shall be accomplished.

(3) *Energy facilities.* For the repair of facilities necessary for the exploration, extraction or transportation of energy resources:

(i) No such facility may be repaired, reconstructed or replaced unless such function can be carried out only in, on,

or adjacent to a coastal water area because the use or facility requires access to the coastal water body;

(ii) Consultation in accordance with § 206.348 shall be accomplished.

(4) *Special-purpose facilities.* For the repair of facilities used for the study, management, protection or enhancement of fish and wildlife resources and habitats and related recreational projects; air and water navigation aids and devices and access thereto; and facilities used for scientific research, including but not limited to aeronautical, atmospheric, space, geologic, marine, fish and wildlife and other research, development, and applications; and, nonstructural facilities that are designed to mimic, enhance or restore natural shoreline stabilization systems:

(i) Consultation in accordance with § 206.348 shall be accomplished;

(ii) No such facility may be repaired, reconstructed, or replaced unless it is otherwise consistent with the purposes of CBRA in accordance with § 206.349.

(5) *Other public facilities.* For the repair, reconstruction, or replacement of publicly owned or operated roads, structures, or facilities that do not fall within the categories identified in paragraphs (c)(1), (2), (3), and (4) of this section:

(i) No such facility may be repaired, reconstructed, or replaced unless it is an “existing facility;”

(ii) Expansion of the facility beyond its predisaster design is not permitted;

(iii) Consultation in accordance with § 206.348 shall be accomplished;

(iv) No such facility may be repaired, reconstructed, or replaced unless it is otherwise consistent with the purposes of CBRA in accordance with § 206.349.

(6) *Private nonprofit facilities.* For eligible private nonprofit facilities as defined in these regulations and of the type described in paragraphs (c)(1), (2), (3), and (4) of this section:

(i) Consultation in accordance with § 206.348 shall be accomplished.

(ii) No such facility may be repaired, reconstructed, or replaced unless it is otherwise consistent with the purposes of CBRA in accordance with § 206.349.

(7) *Improved project.* An improved project may not be approved for a facility in the CBRS if such grant is to be

combined with other funding, resulting in an expansion of the facility beyond the predisaster design. If a facility is exempt from the expansion prohibitions of CBRA by virtue of falling into one of the categories identified in paragraph (c)(1), (2), (3), or (4) of this section, then an improved project for such facilities is not precluded.

(8) *Alternate project.* A new or enlarged facility may not be constructed on a unit of the CBRS under the provisions of the Stafford Act unless the facility is exempt from the expansion prohibition of CBRA by virtue of falling into one of the categories identified in paragraph (c)(1), (2), (3), or (4) of this section.

#### § 206.348 Consultation.

As required by section 6 of the CBRA, the FEMA Regional Director will consult with the designated representative of the Department of the Interior (DOI) at the regional level before approving any action involving permanent restoration of a facility or structure on or attached to a unit of the CBRS.

(a) The consultation shall be by written memorandum to the DOI representative and shall contain the following:

(1) Identification of the unit within the CBRS;

(2) Description of the facility and the proposed repair or replacement work; including identification of the facility as an exception under section 6 of CBRA; and full justification of its status as an exception;

(3) Amount of proposal Federal funding;

(4) Additional mitigation measures required; and

(5) A determination of the action's consistency with the purposes of CBRA, if required by these regulations, in accordance with § 206.349.

(b) Pursuant to FEMA understanding with DOI, the DOI representative will provide technical information and an opinion whether or not the proposed action meets the criteria for a CBRA exception, and on the consistency of the action with the purposes of CBRA (when such consistency is required). DOI is expected to respond within 12 working days from the date of the FEMA request for consultation. If a response is not received within the time